

TRIPURA



GAZETTE

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**PART--I-- Orders and Notifications by the Government of Tripura,
The High Court, Government Treasury etc.****HIGH COURT OF TRIPURA
AGARTALA**

No.F.3(35)-HC/2022/20521

Dated, Agartala, the 17th August, 2022.

NOTIFICATION

The Hon'ble Supreme Court of India, in its order dated 22nd April, 2021 in Civil Appeal Nos. 1659-64 of 2021 (*Rahul S. Shah Vs. Jinendra Kumar Gandhi and Others*) has issued directions to all High Courts to reconsider and update all the Rules relating to execution of decrees with an endeavour to expedite the process of execution. Accordingly, the High Court of Tripura, in exercise of its powers under Article 227 of the Constitution of India and Section 122 of the Code of Civil Procedure, amends the Civil Courts Rules and Orders of the Gauhati High Court as follows:

**CIVIL COURT RULES AND ORDERS OF THE GAUHATI HIGH COURT
(TRIPURA AMENDMENT), 2022****1. Short Title, Applicability and Commencement:**

- (1) These Rules will be called CIVIL COURT RULES AND ORDERS OF THE GAUHATI HIGH COURT (TRIPURA AMENDMENT), 2022.
 - (2) The Rules will be applicable to the Trial Courts and Executing Courts of civil cases over which it has supervisory jurisdiction.
 - (3) These Rules shall come into effect from the date of its notification in the Official Gazette and shall apply to all Civil Courts in the State of Tripura.
 - (4) These Rules amend and consolidate the existing Rules and Practice Directions.
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2. Amendment in Part-I Chapter-1

- (1) In this Chapter, after Rule 22, the following Rule shall be inserted:-

"(i) Rule 22A- Unambiguous disclosure of the status of the suit property in the plaint

While filing a plaint before the Court with respect to immovable property, the plaintiff shall disclose status of the suit property in the schedule of the plaint and the Court, upon presentation of such plaint, shall be satisfied about the compliance of this provision by the plaintiff prior to the institution of the suit. For this purpose the description of the suit property should be compared by the Court with the documents submitted by the plaintiff alongwith the plaint."

3. Amendment in Part-I Chapter-2

- (1) In this chapter, in Rule 49(1), the following Clause shall be inserted:-

"(i) Rule 49(1)(xi)-

Whether the status of the suit property in the plaint has been described accurately."

4. Amendment of Part-I Chapter-8

- (1) In this chapter, after Rule 118 of the Principal Rules, the following Rules shall be inserted:

"(i) Rule 118A- Mandatory examination of parties to a suit under Order X of the Code with respect to third party interest

*In suits relating to delivery of possession, the trial Courts shall examine the parties under Order X of CPC in relation of third-party interest and also exercise its powers under Order XI Rule 14 relating to production of documents including declaration pertaining to third party interest in the suit properties. For this purpose the Trial Courts may publish a general notice drawing attention of the public to make disclosure of third party interest in the suit property (Form of the Notice is provided at **Appendix A**)."*

"(ii) Rule 118B- Appointment of Commissioner by the Courts to assess accurate description and status of suit property

(1) If the possession of the suit property is undisputed and not a question of fact for adjudication, the trial Courts may consider for appointment of Commissioner in appropriate cases only for assessment of accurate description and status of the suit property including the person(s) in actual possession of the suit property.

(2) The Commissioner's report in such cases should be obtained prior to the stage of framing of issues by the Court so as to avoid inclusion of further issues at the later stage of the trial."

"(iii) Rule 118C- Mandatory steps by the Court for addition of all necessary or proper parties and joinder of multiple cause of action

On completion of the examination of the parties under Order X, production of documents by the parties under Order XI or receipt of Commissioner's report, as the case may be, the trial Court shall take up an exercise by directing the parties to disclose whether there is any necessary or proper party/s to be added in the suit and whether there are other cause of action that may be joined in the same suit and on determination of the same the Court shall add all necessary or proper parties to the suit and also to make

joinder of cause of action, if any, in the same suit for prevention of multiplicity of proceedings."

"(iv) Rule 118D- Disclosure of assets of the defendant in a money suit

In money suits, the trial Court shall require the defendant to disclose his assets, both movable and immovable, on oath prior to the settlement of issues."

7. Amendment in Part-I Chapter-10

(1) In this chapter, after Rule 148A, the following Rule shall be inserted:-

(i) Rule 148AA- Executing Courts to dispose of petitions for execution of decree within six months

(1) Executing Courts shall dispose of an execution case within six months from the date of its filing and on failure to do so proper reason in writing may be recorded for extension of the aforementioned period of disposal.

(2) High Court may, on its administrative side, call for periodical reports from the executing Courts regarding pendency of execution cases and also indicating those cases which are pending for more than six months along with reasons for pendency so that special drive may be taken for reduction of such pendency.

(2) In this chapter, after Rule 150, the following Rule shall be inserted:-

"(i) Rule 150A- Recording of evidence by executing Courts in rare and exceptional cases

(1) *The executing Court may record evidence in an execution proceeding to determine a question of fact under some exceptional and rare circumstances when the nature and feature of the decretal land might have changed due to natural calamity or third-party intervention after the passing of the decree but prior to its execution.*

(2) *In case any question of fact is put up before the executing Court and without determining that question of fact the executing Court cannot proceed to execute the decree, then firstly, the fact should be determined by way of appointment of Commissioner or collection of electronic evidence i.e. Audio-Video footage etc. with the table of their content, affirmed by affidavit within the meaning of Order XVIII Rule 4 of CPC or asking that person who has introduced the facts warranting inquiry at that stage shall produce the evidence including electronic evidence. But admission of those evidentiary materials shall be subject to acceptance by the Executing Court."*

(3) In this chapter, after Rule 155, the following Rule shall be inserted:-

"(i) Rule 155A- Mandatory compliance to the provision of Order XXI Rule 11 of the Code in execution of money decree

In execution of money decree, the executing Courts shall execute the decree as per Order XXI Rule 11 of the Code on the basis of oral application of the decree holder."

(4) In this chapter, after Rule 167, the following Rule shall be inserted:-

"(i) Rule 167A- Section 60(1) of the Code shall mean to include beneficiaries of Judgment Debtor

The expression "In the name of the judgment-debtor or by any other person in trust for him or on his behalf" appearing in Section 60(1) of the Code shall mean and include any other person from whom the judgment-debtor may have the ability to share profit or property."

(5) In this chapter, after Rule 204, the following Rules shall be inserted:-

"(i) Rule 204A- Disposal of application relating to third party rights by the executing Courts

(1) The executing Courts shall not issue notice on an application of third party claiming rights in a mechanical manner and refrain from entertaining any application that has already been considered by the trial Court during the adjudication of the suit or which could have otherwise been raised by the parties during the pendency of the suit.

(2) The executing Courts, in appropriate cases, while deciding such claims may obtain electronic evidence in the form of audio-video footage with respect to the claim of the third party."

"(ii) Rule 204B- Imposition of compensatory cost or civil imprisonment by executing Courts

If the executing Court finds that the objection or resistance or claim is frivolous or mala fide, then the Court may impose compensatory costs or civil imprisonment upon the objector by taking resort to the provision of Order XXI Rule 98(2) as well as Section 35A of the Code."

5. Amendment of Part-I Chapter-13

(1) In this chapter, after Rule 247, the following Rule shall be inserted:-

"(i) Rule 247A- Appointment of Court Receiver in appropriate cases

(1) *The trial Courts, in appropriate cases, may consider to appoint Court Receiver for monitoring the status of the property in question as custodia legis for proper adjudication of the matter under Order XL Rule 1 of CPC.*

(2) *To exercise power under this provision, the trial Courts may take into consideration the status of the suit property viz. minor's property, property involving third party interest etc. that may require the Court to appoint Court Receiver for monitoring its status."*

6. Amendment in Part-I Chapter-17

(1) In this chapter, after Rule 117, the following Rule shall be inserted:-

"(i) Rule 117A- Furnishing of security deposit by the defendant in a money suit

The trial Court, in appropriate cases, may demand security to ensure satisfaction of any decree at any stage under Section 151 of the Code."

By Order
Sd/-
(D.M.Jamatia)
Registrar General

PUBLIC NOTICE
(UNDER RULE 118A OF THE CRO)

IN THE COURT OF _____ (NAME OF THE PRESIDING JUDGE)

Court of the District Judge/Civil Judge (Sr. Div./ Jr. Div.), Court No. _____

Mr. XPlaintiff.

Vs.

Mr. YDefendant

Case No _____

To

The Editor,

_____ (Name of the Newspaper)

WHEREAS, this suit has been instituted by the Plaintiff(s) namely _____ against the defendant(s) namely _____ seeking delivery of possession of the suit property described herein below:

(Mention accurate description of the suit property as per schedule of the plaint)

AND WHEREAS, the notice is issued by this Court drawing attention of the public to make disclosure of third party interest in the above-mentioned suit property by appearing before this Court personally or through his/her/their counsel on the _____ day of _____ (month) of _____ (year).

TAKE NOTICE THAT, in default of his/her/their absence in this Court on the day as mentioned before, this case will be heard and determined in his/her/their absence in accordance with law.

Given under my hand and seal of the Court, this _____ (date).

Seal and Signature of the Presiding Judge